JIM CROW, INDIAN STYLE

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In June of 1986, Judge Edward Rafeedie ruled that "official acts of discrimination . . . have interfered with the rights of Indian citizens [of Big Horn County, Montana] to register and vote." Civil rights expert and ACLU attorney Laughlin McDonald later observed in the *San Francisco Examiner* that racism against Indian people in Montana was even worse than he had expected. "I thought I'd stepped into the last century," McDonald explained. "Whites were doing to Indians what people in the South stopped doing to blacks twenty years ago." Big Horn County Commissioner and area rancher Ed Miller "longs for the good old days" when Indians remained on the reservation. Angered by Rafeedie's ruling, Miller threatened to appeal the decision to the Supreme Court. "The Voting Rights Act is a bad thing," Miller complained. "I don't see no comparison with Negroes in the South." Before Janine Windy Boy and other plaintiffs filed suit against Big Horn County, "things were fine around here," Miller lamented. "Now they (Indians) want to vote," he exclaimed. "What next?"[1]

On June 13, 1986, United States District Judge Edward Rafeedie ordered that "at-large elections in Big Horn County violate Section 2 of the Voting Rights Act. . . ." and "that a new system of election must be adopted." Judge Rafeedie's decision culminated a three-year process begun in Big Horn County by Crow and Northern Cheyenne voters who refused any longer to accept second class voting rights.[2]

The case began its way into court in August of 1983, when Jeff Renz and Laughlin McDonald, ACLU attorneys for the plaintiffs, submitted a "Motion for Preliminary Injunction" preventing the defendants, Big Horn County, from holding a general election on November 6, 1983. The motion called for a hearing before Federal Judge James Battin in Billings, Montana. The motion and subsequent suit against Big Horn County charged that the at-large system in county commissioner and school board elections in Big Horn County diluted the Indian vote so as to disenfranchise American Indian voters.

The plaintiffs in *Windy Boy v. Big Horn County* argued that the at-large scheme denied the plaintiffs' rights to participate in elections and to elect representatives of their choice to county and school board offices. In Big Horn County, where non-Indians constitute fifty-two per cent of the population and American Indians form forty-six per cent, at-large elections violated the Fourteenth and Fifteenth Amend-

ments and Section 2 of the 1965 Voting Rights Act. They asked the court to bar further at-large elections until new districts could be apportioned for the Board of Commissioners and School Districts 17H and 1.[3]

The case turned on the 1982 amendment of Section 2 of the 1965 Voting Rights Act. Amended Section 2 declares unlawful any election procedure or voting law which "results" in discrimination because of race, color, or membership in a language minority.[4] In an earlier decision, the Supreme Court had held that Section 2 violations required proof of purposeful discrimination.[5] Recognizing that intentional discrimination is difficult to prove, Congress amended Section 2 stating that no voting procedure can be imposed by a "State or political subdivision in a manner which results in a denial or abridgement of the right of any citizen . . . to vote."[6]

Centuries of conflict dominate Indian-white relations and created the setting wherein late 19th and 20th century civil rights violations began. By the time Congress passed the Indian Citizenship Act in 1924, a sophisticated structure of anti-Indian policies were clearly already in place. Just as passage of the 15th Amendment precipitated countless barriers for the freedmen, the Indian Citizenship Act also failed to elevate American Indian civil rights on an equal footing with non-Indians.

Until 1924, the various states ignored Native Americans and passed numerous unchallenged laws eliminating Indian people from the political process. In 1924, however, non-Indians harboring anti-Indian attitudes now confronted Indian people armed with the protection of the 14th and 15th Amendments.[7]

In addition to federal Indian policies of dispossession, wardship, and concentration, specific territorial and state laws affected Indian people. In 1871, Montana Territory denied voting rights to persons under "guardianship" and outlawed voting precincts at Indian agencies, trading posts in Indian Country, or "on any Indian reservation whatever."[8] In 1884, *Elk v. Wilkins* held that Indians were not made citizens under the 14th Amendment because they were not persons born subject to United States jurisdiction.[9] As such, Montana was not obliged to allow Indians to register to vote in state and county elections. The Montana Enabling Act of 1889 opened voting rights to all male citizens without regard to race or color, with the exception of Indians not taxed.[10] At the turn of the century, two more Montana laws restricted voting rights to taxpayers only and to resident freeholders listed on city or county tax rolls. Although certain American Indians could become citizens under the Dawes and Burke Acts of 1887 and 1906, Montana systematically denied voting rights to Indian people. The

State denied residency to Indian citizens living on reservations and excluded those from voting who maintained relations with a tribe. In 1911, the State Legislative Assembly declared that anyone living on an Indian or military reservation who had not previously acquired residency in a Montana county before moving to a reservation would not be regarded as a Montana resident.[11]

By 1916, Robert Yellowtail, a leader in Crow politics, compared racism against American Indians with the policies used against Black Americans. Singling out discriminatory practices in public accommodations and schools, Yellowtail charged that Hardin, Wyola, Lodge Grass, and Crow Agency had drafted their own "Jim Crow" laws in Montana. Just as emancipation and Reconstruction had failed to elevate freedmen into the mainstream of America, the Citizenship Act fell short of incorporating Indian people into the larger society. Instead, a pattern of separation emerged, widened by state laws diluting the effect of citizenship.[12]

In 1924, Congress extended citizenship to all Indians born in the United States. Application of the 14th Amendment meant, moreover, that they were citizens of the United States "and of the State wherein they resided."[13] Having all the basic political hardware, Congressmen could say, just as was said after Reconstruction, Indians have all the "tools" for political equality; now they are on their own. But historians recognize that Black Americans did not achieve equality with Southern whites after Reconstruction. What followed emancipation and the Reconstruction Amendments was the white response to the abolition of slavery—segregation. In addition to facing a closed society, Black Americans confronted an alien electoral system. Many lacked an understanding of political issues. Large numbers were illiterate or semi-illiterate; and, as Joel Williamson has explained, some even sought relief in withdrawal from associations with the white race.[14]

Was the 1924 Indian Citizenship Act an Indian emancipation proclamation? After that legislation had formally ended the "wardship" status for Indian people, did non-Indians respond by creating a de facto form of segregation in its place? The reservation system certainly lent itself to separating Indian people from non-Indians. Instead of fearing the Africanization of Southern society, did Big Horn County and other Indian counties in the North fear an "Indianization" of the political process? Did non-Indians redefine their relationships with Indian people by creating an Indian version of the Black Code or Mississippi Plan? Were Indian voting rights afforded the same consideration as non-Indians? Did Indian children receive an educational experience on a par with non-Indian children? Were Indian people summoned for jury duty? And what accounts for signs appearing in

Hardin businesses declaring "No Indians or dogs allowed,"[15] or public outhouses with "Whites" and "Indians" scrawled over the separate doors?[16] Although Indian people had won legal and political rights, a pattern of separation had become firmly entrenched in the minds of non-Indians—a mind-set fostered by years of acceptance of the ideology of white racial superiority.

Shortly after the passage of the Citizenship Act, the *Hardin Tribune* focused on newly-won Indian voting rights. News accounts and editorials drew front-page attention to Indian voting potential, and pondered its impact on upcoming elections. Robert Yellowtail attracted a great deal of news coverage when he ran for state office in the fall of 1924. The *Tribune* estimated 5,000, then 9,000, Montana Indians would vote in the 1924 elections, and it closely monitored the number of Indian people who registered in Big Horn County. Clearly, Big Horn County's non-Indian population dreaded the possibility of an Indian being voted into county or state office.[17]

Three years later, state machinery hobbled Indian voting potential when the Montana Legislative assembly passed a law in 1927 dividing Montana counties into three-Commissioner districts. The law established at-large elections for county commissioners who were elected to six-year terms, on a two-year staggered basis. In order to be elected, each candidate had to win a county-wide election.[18] On the surface, and in counties with a homogeneous population, at-large elections appeared to make county-elected officials more responsive to the wider needs of a county. It can be argued, moreover, that at-large elections were Progressive responses to the call for greater democracy in the United States. To ethnic minorities, however, Indian people included, at-large elections erased their chances for minority representation because it required a majority vote on a county-wide election. As of October, 1986, no American Indian had been elected to the Board of County Commissioners in Big Horn County.

Who is to say what the motives were for instituting the at-large election process? Did some support it to genuinely enhance the democratic process while others saw the plan as a subtle method for diluting the "political efficacy" of American Indians in counties with large Indian populations? Or was the at-large election scheme originally a racially neutral phenomenon which was subsequently corrupted for invidious purposes?

The legislative history of Senate Bill 17 establishing at-large elections reveals no overt anti-Indian bias, but its sponsorship by three senators, two of whom were from Indian counties, suggests more than coincidental ties. Senator Christian F. Gilboe from Valier, Montana, represented Pondera County, which included a portion of the Blackfeet

Indian Reservation. Senator Seymour H. Porter, another sponsor to the bill, from Big Sandy, represented Choteau County, which embraced the Rocky Boy Indian Reservation. The motives behind Senate Bill 17 may remain debatable, but the results of the at-large election scheme promoted by Senators Gilboe and Porter are eminently clear to Indian people in Big Horn County.[19]

Ten years later, more state actions crippled Indian voting in Montana. In 1937, the state mandated that all deputy voter registrars must be qualified taxpaying residents of their respective precincts. Because American Indians were exempt from certain local taxes, the state's action excluded Indian people from serving as voter registrars, thereby undermining Indian voter registration on the reservation. In the same year, Montana cancelled all voter registration and required the re-registration of all voters. Indian registration had risen steadily, but after the 1937 cancellation process, Indian voting numbers remained depressed, not returning to the pre-1937 levels until the 1980s.[20]

The events of 1924 did not inaugurate an enlightened period of goodwill between Indian and non-Indian voters. Between 1924 and 1934, Indian candidates ran for state and county offices, but none won. The at-large election scheme and subsequent state actions had effectively disenfranchised American Indians in Big Horn County.

After 1937, it was clear that non-Indians had not welcomed Indian people into the political fold of state and county politics in Big Horn County. Despite the 1924 citizenship legislation, attitudes about Indians and about their political participation had changed very little. Comparing Indians elected to office before and after 1924, absolutely nothing had changed. Indian voters did not even enjoy the personal satisfaction of being sought out on a coalition basis by non-Indian candidates. Through racially polarized voting, Indian candidates were systematically defeated by non-Indian voters who elected non-Indian candidates. To Indian people in Big Horn County, voting rights conferred by citizenship were meaningless.

Comparing Indian voting rights problems with the Black historical model offers dramatic parallels with Jim Crowism and segregation. Both groups confronted the separation of races, and second-class treatment. The Black experience is useful because it dramatizes the seriousness and the pervasiveness of Indian discrimination. Throughout Southern society Black Americans had interacted with whites, but on rural reservations Indian people confronted fewer non-Indians. The relative isolation of the reservation and its inhabitants allowed racial tensions and discrimination to go unnoticed within American society.

The Black experience also draws needed attention to Indian voting issues because it invites society to conclude that Indian people have

suffered indignities no longer tolerated by the courts or Black Americans. Nonetheless, the Black model has a narrow application to the American Indian experience because Blacks and American Indians represent different culture patterns. Many distinct factors affect Indian voting patterns in ways peculiar to Indian people. For example, illiteracy and semi-illiteracy rates among Indian people make it difficult to participate in elections based on the English language. Dale Old Horn, Department Head of Crow Studies at Little Big Horn College, explains that Crow is the primary language of his people. Political and social events at Crow, moreover, are conducted in Crow and English to guarantee the widest understanding. So when it comes to voting, rather than seek assistance from non-Indians in getting ballots interpreted, some Indian people simply avoid the polls.[21]

Old Horn and Mark Small, a Northern Cheyenne rancher in Big Horn and Rosebud County, identified BIA paternalism as another peculiar Indian problem. State laws that all but denied the constitutionality of the 1924 Citizenship Act left Indian people traditionally dependent on the federal government and its agent, the BIA. The Bureau, Small noted, created a "false sense of security" among Indians and persuaded many to believe it would take care of their concerns. This action, in effect, promoted dependence, helplessness, and statewide voting inactivity among American Indians. By ignoring the question of Indian civil rights, Old Horn and Small agreed that the Bureau had retarded the development of full citizenship for Indian people.[22] The question needs to be asked: "If the government is guilty of fostering federal paternalism among Indian tribes and thereby promoting state voting inactivity, is the federal government guilty of violating its trust responsibilities in the area of Indian civil rights?"

Another cultural expression affecting the voting rights question is the matter of tribal sovereignty. Some Indian people avoid confronting state and county voting rights issues because involvement with the state might be seen as inviting state jurisdiction over tribal politics. Demanding equal rights in Montana county and state elections might touch off a new round of termination discussions. Non-Indians promote these fears, Small explained, by challenging Indian people with the question: "We don't vote in your tribal elections, so why are you trying to vote in ours?"[23]

Another far-reaching issue involving voting rights is the avoidance of bigotry and racism. Janine Windy Boy, the lead plaintiff in the Big Horn County suit and President of Little Big Horn College in Crow Agency, explains that it is a foregone conclusion: "You just don't go where you aren't wanted."[24] Being branded a "pagan, heathen, savage, or a blanket-assed Indian" is reason enough, Old Horn observed, for

some Indian people to avoid the election process.[25] Gail Small, an attorney in Lame Deer and an enrolled member of the Northern Cheyenne, explains that Indian people have been "put down" by non-Indians so frequently that some actually internalize the criticism. "After you are told you are incompetent long enough," Small said, "some (Indian people) start believing it." These attitudes, which have historically opposed Indian political participation, have created a deep sense of alienation among Indian people towards state government.[26]

What, then, accounts for the political wasteland for Indian people in Big Horn County extending up to the 1980s? I have argued that the historic relationship between Indians and non-Indians in the pre- and post-1924 period created a setting which was hostile to Indian participation in federal, state, and county elections. The post-1924 years inherited the wardship concept and perpetuated a system, which, whether by design or not, excluded Indian people from participation. Despite being struck down by laws, the historic barriers and stereotypes against Indian voting rights among non-Indians promote the attitude that it is inappropriate for Indian people to vote in state and county elections.

Voting rights cases involving American Indians are not new. Ample case law beginning in the mid-1970s demonstrates that Indian people meeting age and residency requirements cannot be denied voting rights. Exemptions from certain taxes no longer limits their right to vote, and election districts must be apportioned under the "one person, one vote" principle. The 1975 amendment to the Voting Rights Act requires voter registration facilities in Indian communities, and it affords special language arrangements for language minorities.[27] Fred Ragsdale, Jr., an Indian law specialist at the University of New Mexico Law School, explains that Indian voting rights are not matters of Indian law. Ample case law precedents make this a simple citizenship question under federal law. Referring to previous voting rights cases, Ragsdale believes that "the easy ones are over with," and henceforth decisions will turn on the quality of factual questions, proof, and statistics.[28]

If case law supporting Indian voting rights is so clearly defined by the courts, what accounts for violations of the Voting Rights Act in Big Horn County? The clearest answer is the at-large election scheme, described by Jeff Renz, co-counsel for the plaintiffs, as a form of reverse-gerrymandering in Indian counties. One might expect that Indians who comprise 46.2 percent of the Big Horn County population would have elected at least one Indian to county or state office sometime in the past sixty-two years. In response to this disturbing statistic

and to the case in general, the defendants who are non-Indian officials of Big Horn County offer curious responses: (1) past problems cannot be blamed on us today, (2) nothing in Big Horn County hinders Indian voting rights, and (3) no official discrimination against Indians exists in Big Horn County.[29]

The cumulative impact of 19th and 20th century federal Indian policies, state legislation, and racial tensions have created a cultural setting intolerant of American Indian voting rights. What else accounts for the defendant's responses to the plaintiff's charges? The skeptic, however, may argue away each separate example cited, dismissing them as the results of pre-1924 citizenship laws, pre-1965 voting procedures, or unenlightened racial attitudes. But when considered within a historic chronology—the way Indian people consider them—their impact is staggering.

Let us next turn, then, to some of the current and specific problems Crow and Northern Cheyenne people confront in Big Horn County. In terms of county employment, for example, out of 249 employees, the highest number of Indians employed by Big Horn County totaled six in 1985—or 2.4% of the County work force.[30] Of the 100 members on twenty county citizen boards, only two Indians have ever been appointed.[31] Membership on these boards is significant because they promote programs and provide valuable experience and county-wide name recognition for their members. Despite offers from tribal police to serve subpoenas against Indian jurors, only three Indians served on Coroner's Juries in Big Horn County between 1966 and 1983.[32]

During the 1970s and 1980s, Indian people in Big Horn County became more vote-conscious, and a voter registration drive produced as many as 2,000 Indian registrants. At first, county officials cooperated, but as the numbers grew officials began rejecting registration cards containing minor mistakes previously overlooked. This was followed by a refusal to provide Indian people with additional blank forms with the excuse that new ones were being printed—even though information on old and new forms was identical. Another excuse from the Clerk and Recorder's Office was that the Office had already given out large numbers of registration cards to Indians and that no more would be forthcoming until those already given out were returned.[33]

Then in 1982, four Indian and pro-Indian candidates entered the Democratic primary election, and defeated their non-Indian opponents. The outcome shocked non-Indians in Big Horn County and prompted immediate anti-Indian sentiment. Little league baseball teams from Crow Agency, for example, encountered racial hostility just after the election, and non-Indian Democrats charged the organizers of the voter registration drive with fraud and accused them of stealing the

election.[34] The chairman of the County Democratic party admitted that "we sort of got caught with our pants down."[35] Disgruntled non-Indian Democrats left the party and formed the Bipartisan Campaign Committee whose sole purpose was to challenge Indian candidates from outside the Democratic party. The BCC had no Indian membership, it supported no Indian or "pro-Indian" candidates, and opposed only Indian and "pro-Indian" candidates. Its campaign literature informed readers that the Democratic candidates elected in the 1982 primary were not "qualified" and that they did not "reflect the majority opinion of the voters in this County." The Democratic Indian and "pro-Indian" candidates won, but only after narrowly surviving a BCC write-in campaign.[36]

In 1984, Gail Small, a Lame Deer attorney and a graduate of the University of Oregon Law School, ran for state representative in House District 100. Small later described her campaign as one characterized by race. For example, while campaigning east of Tongue River on Otter Creek, she knocked on the door of an area rancher and introduced herself as a candidate for state representative. She explained that she was particularly interested in natural resources and water issues—both vital to this coal-rich region. The rancher responded by pointing off in the distance where the ruins lay of a blockhouse fortress used in the so-called "Cheyenne Outbreak" of 1897. "It was just yesterday that we were fighting you off," he replied to Small, "and now you want me to vote for you?" His response typified Small's reception by non-Indian voters and persuaded her to never again run for office.[37]

In both 1982 and 1984 elections, many Indian people who had registered to vote came to the polls only to learn that their names were not on the list of registered voters. Despite showing proof of registration, election judges refused to allow them to vote. Others who had voted in primary elections found their names removed from the general election registration list. Clo Small, a former precinct committee woman, explained that for years she and her husband, Mark Small, had voted in Busby, but for no apparent reason, in the 1982 school board election she was told that her voting precinct was in Kerby—approximately twenty miles south of Busby. Her husband's precinct remained Busby.

In a related incident, Mark and Clo Small drove from Busby to Hardin, Montana, to obtain voter registration cards. Small hoped to obtain a large number so that he could help register Northern Cheyenne Indian people living inside Big Horn County. Leaving his wife in the car outside the Courthouse, Small went to the Clerk and Recorder's Office and requested voter registration cards. The clerk handed him eleven and instructed him to sign for the numbered cards. Small

explained to the clerk that he had driven considerable distance and that eleven registration cards were hardly worth the trip. The clerk responded: "We are out of them." Angry and suspicious, Small returned to the car and explained to his wife what had happened. Clo Small, a non-Indian, decided to try her luck. When she walked into the Clerk and Recorder's Office moments later and asked for voter registration cards, the same clerk handed her a three-inch stack of cards.[38]

Windy Boy v. Big Horn County offers historians a wide range of ponderables. Despite full citizenship and recent favorable decisions, Indian people still confront official discrimination against their most fundamental civil rights—social and cultural aspects aside. Clearly, the attitudes of their non-Indian counterparts have not kept pace with gains Indian people have made in the courts in recent years. Non-Indians rely on pat responses such as "Indians should look to the federal government for help," or "Indians don't pay taxes, so why should they vote in white elections?" While these attitudes persist, counties with large Indian populations will continue to oppose, challenge, and hamstring the voting rights of Indian people.

By amending Section 2 of the Voting Rights Act to consider the "results" of voting procedures rather than requiring proof of intentional discrimination, Congress has said "Let's not quibble over how intentionally or unintentionally voting rights are being denied." If election practices "result" in discrimination, a violation of federal law has occurred. This sounds simple and straightforward, but it becomes complicated when applied to the reservation setting, when compared with historic Indian policies, and when considered within the context of Indian-white counties controlled by non-Indians.

It is time for historians to survey 19th and 20th century American Indian issues with a broader perspective. Rather than applying a litmus paper test to isolated laws frozen in time and concluding that they were equally demanding to all citizens, let's ask ourselves what is the cumulative, long-term impact of these policies and laws on a culturally distinct language minority.

In the aftermath of Judge Rafeedie's decision, civil rights prospects for Crow and Northern Cheyenne people are, at best, mixed. On the positive side, abandonment of at-large districting enabled Indian people of District 2 to elect John Doyle, Jr. as Big Horn County's first Indian County Commissioner. Doyle's election reverses decades of discriminatory voting practices and illustrates the strength of Indian voting power freed from vote dilution.[39]

On the negative side, however, anti-Indian sentiment seems as strong and defiant as ever. In the spirit of former County Commissioner Ed Miller who complained that the Voting Rights Act was "a bad

thing," the defendants filed a motion of appeal in August of 1986. Subsequent to that, the *Hardin Herald* reported that an anti-Indian jurisdiction group known as Montanans Opposed to Discrimination (MOD) had become interested in the case. Composed primarily of white ranchers, MOD backed a local Secret Concerned Citizens Committee whose objective was to seek the basis for criminal prosecution of two of the plaintiffs in *Windy Boy,* Janine Windy Boy and James Ruegamer, and also Clarence Belue, a former "pro-Indian" County Attorney in Big Horn County. Using a $5,000 donation from MOD, SCCC sought to uncover evidence of wrong-doing for prosecuting all three. These actions, however, came to center on Windy Boy and Belue. Charges against Belue resulted in his review before the Montana State Bar Association.

Also in the wake of the decision and prior to the November 1986 election, Janine Windy Boy received a telephone call from an agent of the Federal Bureau of Investigation in Billings, Montana, asking to meet with her. The FBI explained it was investigating complaints lodged against her with the U.S. Attorney's Office. The complaint alleged that Windy Boy, President of Little Big Horn Community College at Crow Agency, had misused her office by allowing Democratic candidates and tribal officials to use community college facilities rent-free. The FBI concluded its inquiry after Windy Boy met with agents in Billings and delivered documentation disproving the allegations.[40]

Clearly, a political setting in Big Horn County free of distrust, suspicion, and racism remains a long way off. Historic political inequality, oppression, and Indian-hating requires more than one election to usher in a period of racial harmony. One court decision such as Windy Boy means nothing more than non-Indians in Big Horn County can no longer "officially" ignore the county's Indian population. Rafeedie's decision may weaken racist foundations in the county, but the old patterns of distrust, suspicion, and harassment will continue until Indian people are no longer viewed and treated as political refugees in a white man's world.

NOTES

1. Bill Shaw, "Whites vs. Indians in Montana, Where Racism Still Reigns." *San Francisco Examiner,* October 5, 1986; *New York Times,* July 5, 1986.
2. "Memorandum Opinion," *Windy Boy v. Big Horn County,* June 13, 1986.
3. "Notice of and Motion for Preliminary Injunction," August 31, 1983, Billings Division, District of Montana, United States Court.
4. *Public Law* 97-205; *U.S. Statutes at Large* 96:131.
5. *City of Mobile v. Bolden,* 446 U.S. 55, 60-74 (1980).
6. *HR 227,* 97 Cong., 1st sess; *SR 417, Ibid.*
7. "Indian Citizenship Act," *U.S. Statutes at Large,* 43:253.

8. *Laws of Montana Territory, 1871*, 460, 471.

9. Francis Paul Prucha, ed., *Documents of American Indian Policy*. Lincoln: University of Nebraska Press, 1975, pp. 166–167.

10. Montana Enabling Act of February 22, 1889, *U.S. Statutes at Large*, 25:676–684.

11. *Montana Laws, 1897*, 226–228; *Ibid.*, 1903, 159; *Ibid.*, 1911, 223.

12. Robert Yellowtail, "Why the Crow Reservation Should Not Be Opened," *The Red Man Magazine* (April 1916), 265–269. See also "Exhibit 65" in "Plaintiffs' Second Request for Judicial Notice," n.d.

13. *U.S. Statutes at Large*, 43: 253.

14. Joel Williamson, *After Slavery: The Negro in South Carolina during Reconstruction, 1861–1877*. Chapel Hill: The University of North Carolina Press, 1965, chapter X, passim.

15. Testimony of Dick Gregory, p. 1009.

16. The following citation contains two photographs illustrating segregated public outhouses for "Indians" and "Whites." Dan Whipple, "Failure of Democracy: Prejudice and the American Indian," *Northern Lights* (July/August 1986), p. 7.

17. *Hardin Tribune*, May 23, 1924; *Ibid.*, June 20, 1924; *Ibid.*, July 2, 1924; *Ibid.*, July 11, 1924.

18. *Montana Laws, 1927*, 72:226.

19. Ellis Waldron and Paul B. Wilson, *Atlas of Montana Elections*. Missoula: University of Montana Publications in History, 1977, 113–114.

20. *Montana Laws, 1937*, pp. 523, 527.

21. Interview with Dale Old Horn in Crow Agency, Montana, June 30, 1986.

22. *Ibid.*; Interview with Mark and Clo Small in Billings, Montana, July 2, 1986.

23. *Ibid.*; "Barriers to Political Participation," *Native American Participation in South Dakota's Political System*, A Report prepared by the South Dakota Advisory Committee to the U.S. Commission on Civil Rights, 1981.

24. Interviews with Janine Windy Boy in Crow Agency, Montana, July 1, 1986.

25. Interview with Dale Old Horn in Crow Agency, Montana, June 30, 1986.

26. Interview with Gail Small in Lame Deer, Montana, July 7, 1986.

27. Refer to *Goodluck v. Apache County* (1975); *Apache County v. U.S.* (1976); *Little Thunder v. South Dakota* (1975); *Cf. U.S. v. County of San Juan* (1980); *et. al.* in Stephen L. Pevar, *The Rights of Indians and Tribes*. New York: Bantam Books, 1983, 212–216.

28. Telephone interview with Fred Ragsdale, Jr. (Albuquerque, New Mexico), August 15, 1986.

29. Interview with Jeff Renz (Co-counsel for Plaintiffs) in Billings, Montana, June 23, 24, 25, 1986.

30. "Plaintiffs' Amended Proposed Findings of Fact and Conclusion of Law," p. 37.

31. "Testimony of Dick Gregory," p. 295; "Testimony of James Ruegamer," pp. 383–385.

32. "Testimony of Robert Little Light," p. 586; "Testimony of Clarence Belue," pp. 174–193.

33. "Testimony of Leo Hudetz," pp. 611–12.

34. *Ibid.*, p. 615; "Testimony of James Ruegamer," p. 340.

35. *Ibid.*, p. 361.

36. "Attention! Voters!" Bipartisan Campaign Committee Advertisement, n.d.; "Thank You Big Horn County." *Ibid.*; "Attention Voters," *Ibid.*; "Testimony of Hudetz," p. 616; "Testimony of James Ruegamer," pp. 340–345, 361.

37. Interview with Gail Small in Lame Deer, Montana, July 7, 1986.

38. Interview with Mark and Clo Small in Billings, Montana, July 2, 1986.

39. Jacque Ruegamer (enclosures) to the author, November 20, 1986; *Hardin Herald*, November 5, 1986.

40. Telephone interviews with Janine Windy Boy, January 7, 1987, and February 18, 1987.